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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,838	10/12/2001	Claran Kelly	673-1029	2280
7590	07/30/2004		EXAMINER	
William M. Lee, Jr.			KNOWLIN, THJUAN P	
Lee, Mann, Smith, McWilliams, Sweeney & Ohlson			ART UNIT	PAPER NUMBER
Suite 410			2642	2
209 South LaSalle Street				
Chicago, IL 60604-1202				
DATE MAILED: 07/30/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/975,838	<b>Applicant(s)</b> KELLY, CLARAN
	<b>Examiner</b> Thjuan P Knowlin	<b>Art Unit</b> 2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
   
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
   
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
   
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 12 October 2001.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date _____ 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____
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## DETAILED ACTION

### ***Claim Rejections – 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Smock et al (US 6,377,668).
2. In regards to claims 1, 2, 3, and 21, Smock discloses a call waiting indicator and method comprising: a tone detector (440 Hz detector) associated with a computer (computer 14) having a telephony connection (telephone line 10), said tone detector comprising an input for receiving a signal from the telephony connection and a discriminator for identifying a signal indicative of a waiting call (col. 3 lines 37-44); and a signal generator connected to the tone detector and configured to generate a signal to software resident on the computer upon detection of a call waiting signal, whereby said software can alert a user of the computer via an output device of the computer that a call waiting signal has been detected (col. 2 lines 45-57).
3. In regards to claims 4 and 25, Smock discloses a call waiting indicator and telecommunications network, wherein said alert generator communicates with the

operating system of the computer and comprises a command generator for generating a command to the operating system causing the operating system to generate said alert (col. 2 lines 2-13 and col. 3 lines 37-44).

4. In regards to claims 5, 6, 8, 13, 16, 17, 23, and 24, Smock discloses a computer system, program, telecommunications system, and network comprising: a port (modem port 44) for a telephony connection (telephone line 10); a processor (processor 68); a telecommunications manager for managing the transfer of data between the processor and the port (col. 2 lines 45-57 and col. 3 lines 37-44); a user interface connected to the processor comprising at least an output device capable of issuing an alert to a user (col. 2 lines 52-57); a tone detector (440 Hz detector) connected to the port, said tone detector comprising an input for receiving a signal from the telephony connection (telephone line 10) and a discriminator for identifying a signal indicative of a waiting call (col. 3 lines 37-44); and a signal generator connected to the tone detector and configured to generate a signal when a call waiting signal has been detected, whereby a user of the computer can be alerted to the waiting call (col. 2 lines 45-57).

5. In regards to claims 7, 14, 15, and 22, Smock discloses a computer system, program, and method, wherein said alert includes an option for the user to terminate an existing data session under the control of the telecommunications manager, and said interface further includes an input device for enabling the user to select said option (col. 2 lines 13-27 and col. 4 lines 36-42).

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6. In regards to claims 9 and 19, Smock discloses a computer system and program, wherein said output device comprises a loudspeaker (speaker 72) and said alert includes an audio alert (col. 2 lines 38-40 and col. 2 lines 52-54).

7. In regards to claim 10, Smock discloses a computer system, wherein said output device is a display unit (light emitting diode (LED) 76) and said alert is a visible alert displayed on said display unit (col. 2 lines 38-40 and col. 2 lines 52-54).

8. In regards to claim 11, Smock discloses a computer system, wherein said telecommunications manager controls a modem (modem 12) connected to the port (modem port 44) and wherein said input to said tone detector is taken the input or output of said modem (col. 3 lines 11-33, col. 4 lines 18-47, and col. 5 lines 7-16).

9. In regards to claim 12, Smock discloses a computer system, wherein said tone detector and said signal generator are embodied on a PC card mounted on the computer (Fig. 1).

10. In regards to claims 18 and 20, Smock discloses a computer program, further comprising instructions effective to cause a computer to present a user with a tool for selecting one or more signals indicative of a waiting call from a plurality of candidate signals accessible from the computer (col. 2 lines 54-59 and col. 3 lines 37-54).

### **Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DePond et al (US 6,317,488) teach a call waiting-caller

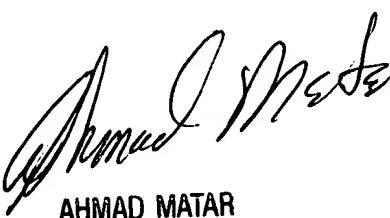
identification notification device. Benson (US 6,104,800) teaches a method for providing call waiting notification to a party engaged in a data call.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thjuan P Knowlin whose telephone number is (703) 308-1727. The examiner can normally be reached on Mon-Fri 8:00-4:30pm.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703)305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thjuan P. Knowlin  
July 13, 2004



AHMAD MATAR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600